IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18196 of 2004

Between:

M/s.Charminar Rubber Products, a proprietary concern at

S.F. No.5-4, Dulapally Village, Quthbullapur Mandal,
R.R.District, rep., by its Proprietor Abdul Samad

s/o Abdul Rahaman, r/o Hyderabad.

..... PETITIONER

AND

1 The Superintending Engineer, Assessments, APCPDCL,

A.P.State Housing Corporation
Building, 3-6-184, 4th Floor, Urdu Hall Lane,

Himayathnagar, Hyderabad.
2 The Superintending Engineer, Operation, RR (North) Circle,
Gun Rock, Secunderabad.
3 The Assistant Divisional Engineer Operation-APCPDCL,
Medchal, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of writ of mandamus, declaring the action of the respondents in assessing the loss in respect of the petitioner without the following the procedure as laid down under Sec.126 of the Electricity Act, 2003, as being illegal, arbitrary, violative of provisions of Electricity Act, 2003 and also violative of Article 14 of the Constitution of India and consequently direct the respondents to forthwith assess the loss in respect of the

petitioner by following strictly the procedure as laid down under Sec.126 of the Electricity Act, 2003.

Counsel for the Petitioner: MR.T.SURYA SATISH

Counsel for the Respondents: MR KANAKAMEDALA RAVINDRA KUMAR (SC FOR APCPDCL)

The Court made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

This writ petition is filed aggrieved by the Provisional Assessment Notice dated 18-08-2004. A perusal of the impugned notice shows that the service connection of the petitioner bearing No.000142-373 Service Category LT3(a) at door No. S.F.No.5-4, Dulapally Village, Quthbullapur Mandal, Ranga Reddy District, was inspected on 17-08-2004 and during the investigation certain irregularities were noticed. On the basis of the same, it is stated that prima-facie the petitioner is guilty of pilferage and he was informed that the Superintending Engineer Assessments will conduct a detailed enquiry and it is open to him to file his representation. That apart, the value of the energy pilfered has been provisionally assessed at Rs.5,33,768/- and the petitioner was called upon to remit a sum of Rs.2,66,884/- if he is desirous of continuation of the power supply. The said order is challenged in this writ petition.

Learned counsel for the petitioner contends that the impugned notice, which is not in consonance of the provisions of the Electricity Act, 2003, is unsustainable. He contends that as per the provisions of the said Act, the respondents are not entitled to demand 50 percent of the provisionally assessed amount.

It is to be noted that the Division Bench of this Court in W.A.Nos.452 and 477 of 2004, while considering the scope of the provisions of the Electricity Act, 2003, held

that under the Act there is no power while issuing provisional assessment to verify, stop or disconnect power supply or even to call upon the consumer to pay a part of the provisional assessment amount till the final assessment is made.

In the circumstances, following the ratio laid down by the Division Bench, I am of the view that the impugned notice cannot be sustained. Accordingly, the impugned provisional assessment notice dated 18-08-2004 is set aside, and it is left open to the Assessing Authority to make a final assessment in accordance with law after affording due opportunity to the petitioner to submit his explanation.

Accordingly, the writ petition is disposed of, with a direction to the respondents to continue the power supply to the petitioner till the final assessment is made. No costs.

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07-10-2004

sh/vs

To

1 The Superintending Engineer, Assessments, APCPDCL,

A.P.State Housing Corporation
Building, 3-6-184, 4th Floor, Urdu Hall Lane,

Himayathnagar, Hyderabad.
2 The Superintending Engineer, Operation, RR (North) Circle,
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